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Plaintiff, appearing Pro Se

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

PRESTON BERMAN,

Plaintiff,

v.

PSYCHIATRIC SECURITY REVIEW BOARD;
ALISON BORT, in her official capacity as
Executive Director of the Oregon Psychiatric
Security Review Board,

Defendants.

Case No: 6:24-cv-01127-MTK

PLAINTIFF'S MOTION FOR LEAVE TO
FILE AMENDED COMPLAINT

I, Preston Berman, Plaintiff appearing pro se, respectfully move this Court under Federal Rule of Civil Procedure 15(a)(2) for leave to file an amended complaint. The proposed amendment adds a request for \$300,000 in compensatory damages under Count I (Violation of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq.) to address emotional distress, loss of liberty, and economic harm caused by Defendants' intentional discrimination from 2022 through the present and ongoing, as evidenced by new testimony from Dr. James Peykanu at my

February 26, 2025, Psychiatric Security Review Board (PSRB) hearing (Exhibit A, PSRB Hearing Transcript). This amendment supplements my original requests for declaratory and injunctive relief, reflecting ongoing harm intensified by the PSRB's recent decision to deny my jurisdictional discharge despite my demonstrated stability.

Additionally, the amendment updates Count II (Fourteenth Amendment Due Process) to incorporate Dr. Peykanu's testimony and the PSRB's February 26, 2025, decision, clarifying the ongoing violation from 2022 through the present, without altering its request for declaratory and injunctive relief.

INTRODUCTION

I filed my original complaint on July 10, 2024, seeking declaratory and injunctive relief to end the PSRB's unconstitutional confinement and segregation under Title II of the ADA and the Fourteenth Amendment Due Process Clause. At that time, I did not seek monetary damages, focusing instead on securing my release. However, new evidence from my February 26, 2025, PSRB hearing—specifically, Dr. Peykanu's testimony confirming my stability since June 2022 and lack of substantial dangerousness—reveals the PSRB's deliberate indifference, intensifying my harm since 2022. This motion seeks to amend the complaint to include \$300,000 in damages for this period and ongoing, ensuring the Court can fully address the violations I continue to endure.

LEGAL STANDARD

Federal Rule of Civil Procedure 15(a)(2) provides that “the court should freely give leave [to amend] when justice so requires.” Leave should be granted unless there is undue delay, bad faith, prejudice to the opposing party, or futility. *Foman v. Davis*, 371 U.S. 178, 182 (1962). As a pro

se litigant, my pleadings are held to a less stringent standard, and I am entitled to liberal construction of my requests. *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972).

ARGUMENT

Justice requires granting leave to amend my complaint for the following reasons:

1. New Evidence Justifies the Amendment

Dr. James Peykanu's testimony on February 26, 2025 (Exhibit A), establishes that I have maintained exceptional stability since June 2022, with no severe manic episodes, due to proactive self-monitoring and medication adherence. Despite this, the PSRB denied my discharge, extending my confinement and segregation. This new evidence, unavailable when I filed my original complaint, demonstrates the PSRB's intentional discrimination under Title II, warranting compensatory damages of \$300,000 for emotional distress (\$175,000), loss of liberty (\$100,000), and economic harm (\$25,000) from 2022 onward.

2. No Undue Delay

I seek to amend promptly after the February 26, 2025, hearing, filing this motion on March 10, 2025, less than two weeks later. The case, initiated in July 2024, remains in early stages, with no trial date set as of this date. This timing reflects diligence, not delay.

3. No Prejudice to Defendants

Defendants will not be prejudiced, as the amendment builds on existing claims under Title II and due process, adding damages based on facts already at issue (e.g., Complaint Paragraphs 11, 84). The PSRB's own hearing record (Exhibit A) provides notice of the underlying evidence, and discovery can accommodate this adjustment without disrupting proceedings.

4. No Bad Faith or Futility

My request is made in good faith to address ongoing harm, supported by Dr. Peykanu's sworn testimony and my documented injuries (e.g., 2023 suicide attempt, Paragraph 84). The amendment is not futile, as Title II permits compensatory damages for intentional discrimination (*Barnes v. Gorman*, 536 U.S. 181, 2002), which I allege through the PSRB's deliberate indifference to my rights since 2022.

5. Justice Requires Relief

As a pro se plaintiff confined at Oregon State Hospital, I face severe, ongoing harm—emotional distress, lost liberty, and economic opportunities—exacerbated by the PSRB's recent decision. Amending my complaint ensures the Court can grant complete relief, aligning with Rule 15's liberal standard and my right to be heard.

CONCLUSION

I respectfully request that this Court grant leave to file the attached Amended Complaint, adding \$300,000 in compensatory damages under Count I for harms from 2022 through 2025 and ongoing. This amendment is timely, evidence-based, and necessary to address the PSRB's intentional discrimination, serving the interests of justice.

PRAYER FOR RELIEF

Plaintiff requests that this Court:

1. Grant leave to file the Amended Complaint, attached hereto;
2. Provide such other relief as the Court deems just and proper.

DATED: March 10, 2025.

Respectfully submitted,

s/ Preston Berman

PRESTON BERMAN

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Plaintiff, appearing Pro Se

CERTIFICATE OF SERVICE

I certify that on March 10, 2025, I served the foregoing PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT upon the parties hereto by the method indicated below, and addressed to the following:

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Attorneys for Defendants

☐ HAND DELIVERY
☐ MAIL DELIVERY
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
☒ E-MAIL
☐ E-SERVE

DATED: March 10, 2025.

Respectfully submitted,

s/ Preston Berman
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